

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LAMARRY CHASE, SR.,

Plaintiff,
v.
Case No. 18-cv-0594-bhl

DIANE BLUE, et al.,

Defendants.

ORDER

Plaintiff Lamarray Chase, Sr., is representing himself in this 42 U.S.C. §1983 action. On May 13, 2021, Defendants filed a motion to compel discovery and to extend the discovery and dispositive motion deadlines or, in the alternative, to dismiss for failure to prosecute. Dkt. No. 32. Defendants assert that Chase failed to respond to their discovery requests and ignored a deposition notice, leaving them with “very little with which to defend against Plaintiff’s allegations....” Dkt. No. 33. Defendants also highlight that Chase has not served any discovery requests of his own and that he is currently “out of custody and in absconder status from his probationary sentence...,” which they assert suggests that Chase no longer wants to prosecute this action. Dkt. No. 34 at 2; Dkt. No. 33 at 4-5.

The Court agrees that Chase’s unresponsiveness may demonstrate a lack of diligence to prosecute this case. However, the Court notes that Defendants’ discovery requests were not timely served and that, even if they had been, Chase’s deadline to respond has not yet passed. As noted in the scheduling order, the Court extended the parties’ time to respond to discovery requests from thirty days to sixty days. Dkt. No. 31 at 2, n. 1. The Court made clear that “the parties must serve

their requests at least sixty days *before* the deadline to allow the opposing party sufficient time under the rules to respond by the deadline.” *Id.* at 1 (emphasis in original). The Court set a discovery deadline of May 7, 2021, which means, to be timely, the parties had to serve their discovery requests by March 8, 2021. According to Defendants, they served their discovery requests on March 18, 2021, less than sixty days before the deadline. Chase is not obligated to respond to requests that were not timely served, so the Court will deny Defendants’ motion to compel.

Still, the Court finds it troubling that Chase did not serve any discovery requests on Defendants and he ignored Defendants’ April 23, 2021 letter informing him that his remote deposition was scheduled for May 7, 2021. In addition, the Court notes that it has not heard from Chase since he was released from custody in mid-June 2020 and that, in October 2020, the Court dismissed several unnamed defendants because Chase made no effort to identify them. *See* Dkt. No. 29.

This background suggests that Chase no longer wishes to prosecute this action. Accordingly, the Court will stay the discovery and dispositive motion deadlines and will require Chase to inform the Court by **June 1, 2021** whether he wants to continue with this action. If the Court does not hear from Chase by the deadline, the Court will dismiss this action pursuant to Civil L. R. 41(c) based on Chase’s failure to diligently prosecute it.

IT IS THEREFORE ORDERED that Defendants’ motion to compel discovery and extend the discovery and dispositive motion deadlines or, in the alternative, to dismiss for failure to prosecute (Dkt. No. 32) is **DENIED**.

IT IS FURTHER ORDERED that the discovery and dispositive motion deadlines are **STAYED**.

IT IS FURTHER ORDERED that, by **June 1, 2021**, Chase must notify the Court in writing whether he wants to continue prosecuting this case. If he does, the Court will set new discovery and dispositive motion deadlines. Chase must participate in discovery, including by appearing for a properly noticed deposition and by responding to timely served requests. If the Court does not hear from Chase by the deadline, the Court will dismiss this action pursuant to Civil L. R. 41(c) based on his failure to diligently prosecute it.

Dated at Milwaukee, Wisconsin this 14th day of May, 2021.

BY THE COURT:

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge